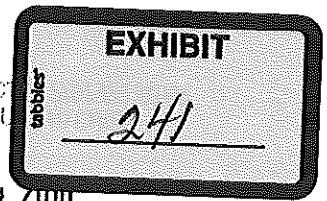




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February 1, 2010

Paul E. Stacey
Department of Environmental Protection
Bureau of Water Protection and Land Reuse
Planning & Standards Division
79 Elm Street
Hartford, Connecticut, 06106-5127

Dear Paul:

I am writing to share my comments on the draft streamflow regulations. I generally support adoption of these regulations, although with some reservations.

Connecticut is in dire need of new regulations to better balance the human use of water with the environmental needs of rivers and other water bodies. The process that has gotten us to these regulations has been an open and deliberative one, and these regulations, in my view, represent a significant step forward in managing water withdrawals in Connecticut. For that reason, I encourage the Department to speedily adopt regulations that are substantially similar to the proposed ones.

With that said, I do want to also express my reservations about two aspects of the draft regulations: class 4 waters, and the absence of an overarching change in state water management.

Class 4 waters. I believe that the Department needs the flexibility afforded by the existence of a class 4. However, I believe that this designation should be used only in cases where it is absolutely necessary in order to allow a vital human use of water. The factors listed in Section 26-141b-5(a) all seem reasonable to me, but no guidance is given in the draft regulations on how these factors should be weighed and how to ensure that this designation is not over-used. I worry that decisions made for individual river segments might end up in a situation where class 4 cumulatively accounts for more of the state's river miles than we would feel comfortable with.

In dealing with potential changes of classification, Section 26-141b-5(c)(1)(B) contains useful language on the criteria that must be met in order to reclassify a stream to a lower (less protective) class: the petitioner must show that "... such change is necessary to accommodate

the legitimate needs and requirements of public health and safety, flood control, industry, public utilities, water supply, agriculture, or other lawful uses and that those needs and requirements cannot be satisfied while maintaining consistency with the narrative stream flow standard for the current classification.” Likewise, that section requires that all reasonably feasible best practices be used to minimize water withdrawals, and that alternative water sources be explored. **I would argue that these protective criteria should be explicitly applied also at the stage of initial classification, in order to ensure that class 4 is used only when absolutely necessary.**

I would note as well that the language in Section 26-141b-5(c)(1)(A) sets a rather high bar for reclassifying streams to a more protective class. Even if conditions have changed (e.g., the water withdrawal is less critical than it was), there is no opportunity for reclassification unless the stream already meets the narrative criteria of the more protective class. I would argue that there are situations in which one would want to push a stream towards a more protective class without it already meeting the criteria for that class.

Integrated water management. Connecticut’s water management system is a splintered one that developed in piece-meal fashion over many years (as you know better than I). In my view, the Department is to be commended for doing an excellent job of water management despite the jumble of conflicting authorities and regulations. However, I believe that it is time to move towards a more integrated system of water resource management. These draft regulations deal with only one aspect of water management and do not represent the much-needed larger restructuring. I appreciate that the restructuring that I refer to is a difficult task to accomplish, but I urge all of us to keep our eyes on that ultimate goal.

Thank you for the opportunity to comment on these draft regulations.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Anisfeld', written in a cursive style.

Shimon Anisfeld, Ph.D.

Senior Lecturer and Research Scientist